IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

Writ Petition No. 1638 of 2007.

Indarchand s/o Ramkumar Agrawal ..vs. Anurag N. Agrawal and others.

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders.	Court's or Judge's orders

Mr. Atul Pande, Advocate for petitioner
Mr. V. R. Mundra , Advcoate for respondent no. 1.
Mrs. Taiwade, Assistant Government Pleader for Respondent Nos. 2 & 3.

CORAM : R.V.MORE, J.
DATED : 26/11/2007

CIVIL APPLICATION NO.6501/2007

Heard.

By this application, the applicant/ petitioner seeks permission to file additional documents as per list on record. The counsel for the respondents have no objection.

Hence, for the reasons stated in the application, the application is allowed and disposed of.

Writ Petition No. 1638/2007

This is a tenant's petition. The respondents-landlord filed proceedings for permission to terminate the tenancy of the

petitioner before the Rent Controller on the ground of clause 13(3)(ii)(v) (vi) i.e. default, bona fide requirement and acquisition of alternative accommodation. The Rent Controller granted permission in favour of respondents- landlord to terminate the tenancy of petitioner under clause 13(3)(vi) i.e. bonafide requirement. The petitioner challenged the order of the Rent Controller by preferring an appeal before the Additional Collector, Gondia. The Additional Collector, Gondia, dismissed the petitioner's appeal by passing an order which order is impugned in this petition.

The learned Additional Collector in para 18 of the impugned order has observed that the petitioner/appellant admitted that there is no other house owned by the respondent-Anurag other than the demise premises. The respondent wants to start business of food grains in the premises occupied by the

appellant/petitioner. The learned Additional Collector further observed that the appellant/petitioner himself admitted bona fide reasonable need of the respondents. In para 18 of the impugned order the findings of fact is recorded that the respondents-landlord have no alternative accommodation and they want to start the business in the premises rented out to the appellant/petitioner. It is also observed that the appellant/petitioner has sufficient premises to shift his business and as such no hardship will be caused to the appellant/petitioner tenancy.

Mr. Pande, learned counsel for the petitioner submitted that the findings recorded by the lower Courts are contrary to the evidence of record. However, perusal of the petitioner's cross examination at page 35 of the compilation of petition do show that the petitioner has admitted that respondents have no alternative accommodation other than the

premises in respect of permission to terminate the tenancy is sought for.

The learned counsel for the petitioner has relied upon the document filed in Civil Application bearing No. 6501/2007. The petitioner annexed documents at annexure 3 and annexure 4 to the civil application in order to show that the respondents owned business premises apart from the suit premises. Perusal of these annexures, revealed that this certificate is of 2000 whereas the application for permission to terminate tenancy was filed before the Rent Controller in the year 1998. In addition to this, it also reveals that the respondents have some factory premises at Zilli-milli village. However, the suit premises is situated at Gondia. In view of this, in my opinion, petitioner's cannot place reliance on the documents at annexures 3 & 4, in order to show that the respondents have no bona fide reasonable need.

The authorities below have recorded concurrent findings and held that the respondents-landlord has proved bona fide and reasonable requirement of premises and therefore, the permission to terminate petitioner tenancy under Clause 13(3)(vi) is granted.

I do not find any error in the impugned order so as to enable to interfere in my jurisdiction under Article 226 & 227 of the Constitution of India. The petition is, therefore, dismissed, with no order as to costs.

JUDGE.

jsa